

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

**FILED**

**MAR 30 2001**

**CLERK, U.S. DISTRICT COURT**  
By \_\_\_\_\_  
Deputy

**LESLIE HUNTINGTON** §  
**JESSE P. JAMES** §  
**DAVID LAWRENCE** §  
**TERRY MAX SCHARDERIN** §  
**CHARLES A. MILLER** §  
**JERRY CHAMBERS** §  
**LEE JACOBSON** §  
**NORMAN S. TRIMBLE** §  
**MARK NOBLE** §  
  
**Plaintiffs,** §  
  
**VS.** §  
  
**ASARCO, INC.,** §  
  
**Defendant.** §

**COMPLAINT-REPRESENTATIVE  
ACTION**

**CA NO. : \_\_\_\_\_**

**2-01 CV-0133J**

**INTRODUCTION**

1. This is a representative action for unpaid wages and overtime brought pursuant to the Fair Labor Standards Act, 29 U.S.C. §216(b).

**JURISDICTION**

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and §1337.

**PARTIES**

3. Plaintiffs are residents of Potter County, Texas or adjacent counties. They bring this action on behalf of themselves and representatives of similarly situated workers who

file consents to join in this action.

4. Defendant **ASARCO, INC.**, a foreign corporation and is believed to be wholly owned by Grupo Mexico, S.A., is engaged in the production of goods for commerce in the State of Texas and at various other locations in the United States.

### **FACTS**

5. At various times until February 2001, Plaintiffs have been employed in the production of goods for commerce at the copper refinery plant operated by Defendant **ASARCO, INC.**, in Amarillo, Texas

6. During this, time Defendant ASARCO failed to pay Plaintiffs their regular rate of pay for all hours of work they performed up to 40 hours per week and failed to pay them overtime for hours of work they performed in excess of 40 hours per week as required by the Fair Labor Standards Act.

7. The failure to pay Plaintiff their lawful wages under the Fair Labor Standards Act included, but was not limited to, failing to pay them for time spent donning and doffing personal protective equipment, working in the refinery at the direction of their employer before and after their scheduled shifts, cleaning personal protective equipment, requiring Plaintiffs to arrive at and prepare their stations, and to receive their daily assignments for the days work. All of this occurred before or after paid time.

8. Numerous similarly situated individuals working in the production of goods for commerce at the Defendant's refinery in Amarillo, Texas were also deprived of their lawful

wages under the Fair Labor Standards Act in the same manner as Plaintiffs. This action is brought on behalf of those similarly situated workers.

9. The Defendant's failure to pay Plaintiffs and similarly situated workers their lawful wages required by the Fair Labor Standards Act was willful. Despite its knowledge that time spent performing the above activities was compensable time under the FLSA, ASARCO, INC., took no steps to compensate workers at its refinery in the State of Texas. On information and belief, the Defendant took no steps to compensate similarly situated workers at its other plants in other locations for this time.

**REPRESENTATIVE ACTION**

10. Plaintiffs bring this action on behalf of themselves and all similarly situated employees of ASARCO, INC. Plaintiffs request that notice be issued to these employees informing them of their right to file consents to join in this action.

**CAUSE OF ACTION**

11. Plaintiffs and similarly situated workers are entitled to relief pursuant to 29 U.S.C. 216(b) of the Fair Labor Standards Act.

**PRAYER FOR RELIEF**

Wherefore, Plaintiffs pray that this Court:

1. Issue notice to all similarly situated employees of ASARCO, INC., informing them of their right to file consents to join in this action;
2. Declare that Plaintiffs and similarly situated workers who file consents to join in this

suit are entitled to pay for all of their FLSA-defined hours of work, including, but not limited to, time spent donning and doffing personal protective equipment cleaning personal protective equipment, working in the plant at the direction of their employer before and after their scheduled shifts, cleaning personal protective equipment, working in the refinery at the direction of their employer before and after their scheduled shifts, cleaning personal protective equipment, requiring plaintiffs to arrive and prepare their stations, and to receive their daily work assignments. All of this occurred before or after paid time.

3. Awarding Plaintiffs and similarly situated workers who file consents to join in this suit, their unpaid regular hourly wages for hours of work up to 40 hours per week and their unpaid overtime for all hours of work in excess of 40 hours per week, an equal amount of liquidated damages, attorneys' fees, and costs of suit and such other relief as this Court deems just and proper.

Respectfully submitted,

LESLY & RUSS, PLLC  
2700 S. WESTERN, SUITE #1200  
AMARILLO, TEXAS 79109  
(806)468-8828  
(806)358-9296 - FAX

BY:   
PHILIP R. RUSS, P.C.  
SBN: 17406000